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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,788	01/12/2004	Valentin Shustov		1787

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EXAMINER

A, PHI DIEU TRAN

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/707,788

Applicant(s)

SHUSTOV, VALENTIN

Examiner

Phi D. A

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Per applicant's arguments, the claims are treated to have the "earthquake protectors" being subcombination to the footing, and building structure.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Lines 1-2 " earthquake protectors" being in parenthesis is improper.

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract is **still** too long.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Japan (3-169984) in view of Yaghoubian (4726161) and Tada et al (4188681).

Japan (figure 4) shows a system of properly manufactured earthquake protectors adapted to separate a building superstructure from its foundation for protection against damaging effect of strong earthquakes and at the same time to prevent separation under a strong wind or minor earthquakes, each of earthquake protectors comprising two ring-shaped segmented slide tracks (figure 4) containing plurality of freely revolving rollers (3) made of hard material, the rollers in each track stretched parallel to one another, the tracks positioned above each other with their axes of rotational sliding being set horizontal and mutually orthogonal in order to provide an adequate separating effect for any horizontal component of earth movement, three properly configured race pads (2, 10, 1), a lower pad (1) resting on the building footing, an intermediate pad (10) and an upper pad (2) supporting the building superstructure, the top surface of the lower pad and bottom surface of the intermediate pad encompassing a lower track, top surface of the intermediate pad and bottom surface of the top pad encompassing an upper track, the pads being able to slide on the rollers along their tracks.

Japan (figure 4) does not show a column stub underpinning and framed into the building superstructure, the stub having its lower end unrestrained against rotation and supported on the top of upper pad with the held of a self-lubricating spherical foot bearing in order to prevent an earthquake induced bending moments to propagate upwards into the building superstructure.

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Yaghoubian shows a column stub (27) underpinning and frame into the building superstructure, the stub having its lower end (18) unrestrained against rotation and supported on the top of a pad (16).

Tada et al discloses a self-lubricating spherical foot bearing (per lubricant 29).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Japan (...984) to show a column stub underpinning and framed into the building superstructure, the stub having its lower end unrestrained against rotation and supported on the top of upper pad with the held of a self-lubricating spherical foot bearing in order to prevent an earthquake induced bending moments to propagate upwards into the building superstructure because having a column stub underpinning and framed into the building superstructure with the stub having as its lower end unrestrained against rotation and supported on the top of upper pad will allow for the compensation of moments created by motions as taught by Yaghoubian; and having self-lubricating spherical foot bearing would enable the lubricating of the contact surface between the bearing and the its supporting surface and thus enabling a long lasting joint as taught by Tada et al.

Response to Arguments

4. Applicant's arguments filed 8/8/05 have been fully considered but they are not persuasive.

Applicant states Japan 3-169984 does not show the top and bottom surfaces having same curvature, examiner respectfully points out the following. "top and bottom surfaces having same curvature" are not claimed limitations. The arguments are thus moot.

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5. Applicant further states that applicant's tracks are ideal to minimize transmission of shear forces from the earth to the building structure while the tooth gear per Japan patent is to transmit as much power between components of a machine as possible, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

With respect to Yahoubian and Tada, examiner respectfully points out that applicant's claim only states "tracks containing a plurality of freely revolving rollers", the references teach a column stub and self-lubricating spherical foot bearing respectively. The limitation of "plurality of freely revolving rollers" is disclosed by Japan 3-169984 as stated in the office action.

Furthermore, applicant refers to the rollers being "cylindrical", the argument is thus moot, as the limitation is not claimed.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Tuesday, Thursday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phi Dieu Tran A

PA

10/6/05

LANNA MAI
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Lanna Mai